

RECEIVED

JAN 24 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Joint Petition for Rulemaking to )  
Establish Rules for Subscriber )  
Access to Cable Home Wiring for )  
the Delivery of Competing and )  
Complimentary Video Services )

RM-8380

**REPLY COMMENTS OF  
MEDIA ACCESS PROJECT**

Media Access Project (MAP) respectfully submits the following reply to the comments filed December 21, 1993 in the above-referenced docket.

MAP, the United States Telephone Association and the Citizens for a Sound Economy Foundation filed a joint petition on July 27, 1993, for the purpose of determining how cable subscribers can have access to cable home wiring for the delivery of competing and complementary services before termination of service. MAP, et. al., argued that affording cable subscribers access to cable home wiring before termination of service would enhance competition in the delivery of multi-channel video services and allow consumers to avoid the cost and disruption of having a second, redundant set of home wiring installed.

The Joint Petition recommended that the Commission utilize the current telephone inside wiring rules as a model for cable home wiring. The telephone inside wiring rules were adopted to increase

No. of Copies rec'd  
List ABCDE

247  
MNB

competition and result in savings for consumers. MAP, et. al., believe that cable subscribers should enjoy these same benefits.

MAP notes that the majority of parties submitting comments support the initiation of a rulemaking as proposed in the Joint Petition.<sup>1</sup> Two parties, while supporting the objectives of the Joint Petition, suggested that they be achieved through different procedural avenues.<sup>2</sup>

MAP recognizes that while these alternative approaches have merit, the Commission had earlier indicated its desire to conclude rulemaking proceedings under the Cable Act of 1992<sup>3</sup> within the prescribed time periods. Further, MAP again notes the Commission's explicit recognition that the rulemaking requested in the Joint Petition has merit, but that it should be conducted in a new proceeding.<sup>4</sup>

---

<sup>1</sup> See Comments of Building Industry Consulting Service International, GTE, Henry Geller, American Public Info-Highway Coalition, Ameritech, BellSouth, NYNEX, Pacific Bell and Nevada Bell, Wireless Cable Association International, Inc., Utilities Telecommunications Council, Independent Television Stations, Inc., METS Fans United/Virginia Consumers for Cable Choice, The Southern New England Telephone Company, Bell Atlantic, and The Telecommunications Industry Association.

<sup>2</sup> The Consumer Electronics Group of the Electronic Industries Association suggested that the Commission could achieve the same results by acting favorably on a Petition for Reconsideration filed by the NYNEX Telephone Companies on April 1, 1993, in MM Docket No. 92-260. (See Comments of the Consumer Electronics Group of the Electronic Industries Association at 1.) The New York City Department of Telecommunications and Energy asked that the Commission first issue a Notice of Inquiry. (See Comments of the New York City Department of Telecommunications and Energy at 3.)

<sup>3</sup> Public Law 102-385.

<sup>4</sup> In its Report and Order on cable home wire the Commission noted:

"Although we generally believe that broader cable home wiring

Parties objecting to the initiation of rulemaking raise issues that are largely identical to those considered by the Commission during its rulemaking on cable home wiring for subscribers who terminate service.<sup>5</sup> MAP does not wish to minimize the issues raised regarding signal leakage, signal ingress, theft of services and the technical differences between telephone and cable technology. MAP believes that these issues should be carefully considered and addressed again in a new rulemaking. They should not, however, be allowed to stand as absolute barriers to subscriber access to cable home wiring for the delivery of competing and complementary video services.

Perhaps a clue to the underlying concern of those who oppose the Joint Petition can be found in the Comments of the National Cable Television Association. The cable television's trade association notes that:

"Under the 1992 Cable Act, cable operators must provide a certain percentage of their channel capacity for must carry and leased access channels and must provide basic cable service to all subscribers. If an operator is forced to cede some portion of its capacity to another multi-channel delivery medium, it may sacrifice its ability to deliver the full panoply of its service offerings."<sup>6</sup> (emphasis added)

---

rules could foster competition and could potentially be considered in the context of other proceedings, because of the time constraints under which we must promulgate rules as required by the Cable Act of 1992, we decline to address such rule proposals in this proceeding." REPORT AND ORDER, MM Docket No. 92-260, at 4.

<sup>5</sup> See Comments of The National Cable Television Association, and the Warner Entertainment Company, L.P., and Joint Comments of Cablevision Industries Corp., MultiVision Cable TV Corp., and Providence Journal Company.

<sup>6</sup> See Comments of the National Cable Television Association at 10.

The objective of the Joint Petition is not to "force" cable operators to surrender some portion of their capacity to a competing provider of video services. It is, rather, to allow consumers to use the cable wiring already installed in their homes to receive competing services.

MAP fully anticipates that some consumers will choose to supplement basic cable service with extended basic, premium or pay-per-view services offered by a competing provider rather than their current cable operator.<sup>7</sup> In these instances the incumbent cable operator will lose market share.

Finally, parties objecting to the Joint Petition argue that the Commission does not have the authority to adopt rules for subscriber access to cable home wiring before termination of service. This issue is fully addressed in the Joint Petition and in many of the Comments. MAP and others believe that there are no legal roadblocks to the Commission proceeding as suggested in the Joint Petition.

#### CONCLUSION

MAP believes that adopting cable home wiring rules modelled after those for telephone inside wiring would further the primary goal of the Cable Act of 1992 to increase competition and enhance consumer choice in the cable television market.

Respectfully submitted.

---

<sup>7</sup> See, for example, Comments of METS Fans United/Virginia Consumers for Cable Choice at 2-3.

MEDIA ACCESS PROJECT

By: 

Gigi B. Sohn  
MEDIA ACCESS PROJECT  
2000 M Street, NW  
Washington, D.C. 20036

January 24, 1994

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
Joint Petition for Rulemaking to ) RM-8380  
Establish Rules for Subscriber )  
Access to Cable Home Wiring for )  
the Delivery of Competing and )  
Complimentary Video Services )

MOTION TO ACCEPT LATE FILED COMMENTS

The Media Access Project (MAP) hereby requests the Commission to accept the attached comments for filing after their due date in the above-captioned proceeding. MAP was unable to meet the filing deadline because of inclement weather in the Washington, D.C. metropolitan area, the state-of-emergency declared by the Mayor of the District of Columbia and a disabling injury to staff assisting MAP in this proceeding.

We regret any inconvenience that this matter may cause the Commission.

Respectfully submitted.

MEDIA ACCESS PROJECT

By: \_\_\_\_\_

Gigi B. Sohn  
MEDIA ACCESS PROJECT  
2000 M Street, NW  
Washington, D.C. 20036

January 24, 1994